

WORKERS' COMPENSATION INDUSTRIAL COUNCIL

MAY 30, 2013

Minutes of the meeting of the Workers' Compensation Industrial Council held on Thursday, May 30, 2013, at 1:00 p.m., Offices of the West Virginia Insurance Commissioner, 1124 Smith Street, Room 400, Charleston, West Virginia.

Industrial Council Members Present:

Bill Dean, Chairman
Kent Hartsog, Vice-Chairman
James Dissen
Dan Marshall

1. Call to Order

Chairman Bill Dean called the meeting to order at 1:05 p.m.

2. Approval of Minutes

Chairman Bill Dean: The minutes of the previous meeting were sent out. Did everybody have a chance to look them over? Is there a motion for approval?

Kent Hartsog made the motion to approve the minutes from the April 25, 2013 meeting. The motion was seconded by Dan Marshall and passed unanimously.

3. Office of Judges Report – Alan Drescher, Deputy Chief Administrative Law Judge

Judge Drescher: Judge Roush asked me to express her regrets of being unable to attend this afternoon's meeting. There is really not a lot of news to present here today. Things are pretty much going as they have been going. We acknowledged 361 protests in the month of April, and that is consistent with the way things have been going. The decrease in the number of protests is continuing. We are now projecting that we'll probably be around 4,500 protests for the calendar year of 2013. We currently have 3,140 protests pending in our office. Otherwise, I don't really have a lot to point out on this report. I would be glad to respond to any questions that you may have.

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Chairman Dean: Mr. Dissen, questions on the report?

James Dissen: No, sir.

Chairman Dean: Mr. Hartsog?

Kent Hartsog: No, sir.

Chairman Dean: Mr. Marshall?

Dan Marshall: No, Mr. Chairman.

Judge Drescher: I also wanted to mention that the Legislature did pass a Bill that will have some effect on our office in the most recently concluded session. It is House Bill 3069, which arose out of the Supreme Court's Access to Justice Commission. The basic premise of the Bill is that it does allow for attorneys' fees to be awarded to claimants' attorneys if they are successful in getting a denial of medical benefits reversed. A Petition has to be filed with the body that issues the final determination, whether that is our office or the Board or Review or the Supreme Court. There is a limitation of \$500.00 per issue and \$2,500.00 per claim [in the Bill]. There are some questions about how it is going to be implemented. We are attempting to meet with the Board of Review and someone on behalf of the Court just to make sure we handle it in a consistent manner with those two bodies. The Bill goes into effect July 12, 2013, so we have a few weeks to figure out how we're going to deal with all of it. I'm sure there will be a lot of issues that come up that we don't know the answers to yet, but we'll come up with one.

Chairman Dean: Mr. Dissen, do you have a question?

Mr. Dissen: Not at this point.

Chairman Dean: Mr. Hartsog?

Kent Hartsog: No, thank you.

Chairman Dean: Mr. Marshall?

Dan Marshall: No, thanks.

Judge Drescher: Thank you.

4. General Public Comments

Chairman Dean: We'll move onto general public comments. Mr. Bowen, do you have anything today?

Henry Bowen, Executive Secretary, West Virginia Self-Insurers' Association: No, sir. Thank you.

Chairman Dean: Does anybody else have anything they would like to bring up?

5. Old Business

Chairman Dean: Does anybody from the Industrial Council have anything they would like to bring up under old business? Mr. Dissen?

Mr. Dissen: No, sir.

Chairman Dean: Mr. Hartsog?

Mr. Hartsog: No, sir.

Chairman Dean: Mr. Marshall?

Mr. Marshall: No, Mr. Chairman.

Chairman Dean: Commissioner?

Michael Riley, Commissioner, OIC: No, sir.

Chairman Dean: Mr. Pauley?

Andrew Pauley, General Counsel, OIC: No, Sir.

Chairman Dean: Ryan?

Ryan Sims, Associate Counsel, OIC: No.

6. New Business

Chairman Dean: Seeing none, we'll move onto new business. Does anybody have anything to bring up under new business? Mr. Disson?

Mr. Disson: No, sir.

Chairman Dean: Mr. Hartsog?

Mr. Hartsog: One question. I was just curious. . .what do you all see on the horizon to bring up in front of the Council, or what you are planning?

Commissioner Michael Riley: We do not have anything on our agenda right now. I think the last time we met Andrew [Pauley] mentioned some other issues. . .Access to Justice. Those haven't been brought to us. Certainly that or any other items that are brought to us we will give consideration, and make sure you [Council members] are included in the discussions and decision making.

Mr. Hartsog: No other rule changes or anything that you guys are seeing a need for or the need to get into at this point.

Commissioner Riley: Not at this point. Nothing on the agenda.

Mr. Hartsog: Thank you.

Chairman Dean: Mr. Marshall, do you have anything under new business?

Dan Marshall: Yes. . .one small matter that I would like to bring up and inquire of the Commission's personnel here. A complaint was brought to me regarding a third party administrator for a self-insured with respect to small dollar amount claims that have been consistently denied by this TPA. These claims are not large enough to interest any counsel, even under the new legislation. The injured parties in most instances don't have the time or means to take the effort to appeal. Is the appropriate body for the provider to talk to – if they are suspicious or think there may be consistent abuse on the part of the TPA – would that be directly to the Commissioner?

Commissioner Riley: Yes, sir. We have a Consumer Services Division that handles that and an array of other issues. That obviously puts it on our radar and we'll follow up with the TPA, the self-insured, talk to all parties, get the evidence, and try to rectify the matter for the consumer.

Mr. Marshall: The appropriate party to approach your Consumer Services Division, would that be the patient or the provider?

Commissioner Riley: Either one can.

Mr. Marshall: Either one can. . .okay.

Commissioner Riley: And feel free to give them my name and number also if they want to speak with me. Go to our website. The Consumer Services forms are out there. We have an excellent staff to assist them.

Mr. Marshall: Thank you.

Chairman Dean: Commissioner, do you have anything that you would like to bring up under new business?

Michael Riley, Commissioner, OIC: No, sir.

Chairman Dean: Mr. Pauley?

Andrew Pauley, General Counsel, OIC: No, Mr. Chairman.

Chairman Dean: Ryan?

Ryan Sims, Associate Counsel, OIC: No, sir.

7. Next Meeting

Chairman Dean: The next meeting is Thursday, July 11, 2013 at 1:00 p.m. The eleventh is a bad day for me. I can come any other Thursday, but I'm booked somewhere on the eleventh. I'm good the prior week or the following week – whatever is best.

[There was discussion regarding the date of the next meeting.]

Chairman Dean: The conference room is available on July 18. So we will confirm Thursday, July 18, 2013 at 1:00 p.m. for our next meeting.

8. Adjourn

Chairman Dean: If there is no other business, I'll entertain a motion for adjournment.

Mr. Marshall made the motion to adjourn. The motion was seconded by Mr. Hartsog and passed unanimously.

There being no further business the meeting adjourned at 1:21 p.m.